

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 6262 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

NORMA L. AKERS
(Claimant-Appellant)

PRECEDENT
BENEFIT DECISION
No. P-B-307

FORMERLY BENEFIT DECISION No. 6262
--

S.S.A. No.

VALLEY VISTA POTTERY
(Employer)

Account No.

Referee Decision
No. LA-3997

STATEMENT OF FACTS

The above-named claimant on December 27, 1954, appealed from the decision of a referee which held that the claimant was not entitled to benefits under section 1256 of the Unemployment Insurance Code.

The claimant, a painter and hand decorator for 15 years, was last employed by the employer herein, a pottery company, for approximately six months ending September 20, 1954. During this period of employment, working conditions were described by the claimant as "impossible." There was no place for a painter to carry on her decorating and for a while she worked near the kilns where the heat was sickening. During the latter part of her employment, she and a second decorator were moved to a corner near the finishers with improper lighting. Plaster and water from the finishers dropped into the paint and splashed on the claimant. Certain employees related to the owner used vulgar and vile language in the presence of the claimant and other employees. On about eight occasions, the claimant

complained of these conditions to the employer and was given no satisfaction. He would swear, or generally say, "Either do it or take your pay", "Do it or else". These conditions made the claimant nervous, so that she commenced to have headaches and would cry when she got home after work. On occasions when her work was slack she would be assigned to other work such as casting, or finishing, which burned her hands and made it difficult to use them for painting. The claimant remained during this long period because the shop itself was nice and it was near her home.

The final incident arose when an elderly employee, who acted as a supervisor, placed a list of the employed women on the wall in the restroom for the purpose of designating the order in which the employees would undertake the cleaning of the toilets. When the claimant saw the list and that she would be next on the job, she informed the employee that she would not undertake the assignment and she was not to make any further lists with her name on it. This employee swore at her and told her she would do it. The claimant reported the incident to her employer who said, "Either do it or take your pay". The claimant concluded her only recourse was to resign. Thereafter, in a telephone conversation on September 26, 1954, the employer requested that she return to work. The claimant refused to do so for the very reasons she had left. The claimant denied the employer's report that she offered to return for an increase in pay. The employer was not represented at the hearing, although duly notified of the hearing.

On September 19, 1954, the claimant registered for work and filed an additional claim for benefits in the Burbank office of the Department of Employment. On October 4, 1954, the department issued a determination and ruling which held that the claimant voluntarily left her work without good cause under sections 1256 and 1030 of the code and was disqualified for benefits for five weeks from September 19, 1954 to October 23, 1954. The claimant filed a timely appeal.

The issue is whether the claimant voluntarily left her work without good cause.

REASONS FOR DECISION

Section 1256 of the Unemployment Insurance Code provides in part:

"An individual is disqualified for unemployment compensation benefits if the director finds that he left his most recent work voluntarily without good cause. . . ."

In Benefit Decision No. 5018 the claimant, in addition to his own work, was required to carry on the duties of another employee. Although he requested his superior to secure a replacement, no action was taken until a day prior to his leaving. In addition, he had to contend with other employees who appeared intoxicated and were unable to perform their duties. We stated that the combination of circumstances created a situation which made the claimant's working conditions intolerable and he had good cause for leaving.

The circumstances in this case, although factually differing from those in Benefit Decision No. 5018, created a situation which made the claimant's working conditions intolerable. The claimant was employed as a hand decorator. She was not provided with proper working space; she was forced to listen to vulgar and vile language; and she was on occasions assigned to perform tasks not within the scope of her duties. Her complaints to the employer were futile. Considering these facts we hold that the claimant had good cause for voluntarily leaving her work under sections 1256 and 1030 of the code (Benefit Decisions Nos. 5018, 5686 and Ruling Decision No. 1). In addition, since she refused the offer of work made by the employer on September 26, 1954 for the same reasons which compelled her to leave, she had good cause for the refusal (Benefit Decision No. 4764).

DECISION

The decision of the referee is reversed. Benefits are payable provided the claimant is otherwise eligible. Any benefits paid to the claimant subsequent to September 20, 1954, based on wages earned prior thereto shall be charged under section 1032 of the code to Employer Account Number 17-7742.

Sacramento, California, March 18, 1955.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

EDWARD CAIN

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 6262 is hereby designated as Precedent Decision No. P-B-307.

Sacramento, California, May 4, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT